SBCivil Writ Petition No.4868/2006

WO L.Singh, Wpn/Fit
Vs.
Union of India & Ors.

Date of Order :: 31st October, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. P.S.Bhati, for the petitioner.
Mr. Kuldeep Mathur, for the respondents.

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The petitioner was enrolled with Indian Air Force on 13.10.1971 in Weapon Fitter Trade. Promotions were accorded to him time to time according to existing policies and was lastly promoted as Warrant Officer on 1.8.2001. The respondents allowed extension of service in respect of the petitioner on five occasions, those are, from 13.10.1986 to 12.10.1992; from 13.10.1992 to 12.10.1997; from 13.10.1997 to 12.10.2000; from 13.10.2000 to 12.10.2003; and from 13.10.2003 to 12.10.2006. As a consequence to the last extension the petitioner is to be discharged from service on 31.10.2006.

According to existing policy for extension in service, an aspirant, who fulfil the requisite criteria for grant of further extension in accordance with the criteria prescribed by Air Force Order No.11/99, is required to submit an application 18 months before completion of his existing term of

engagement. The Air Force Order No.11/99 reads as follows:-

"AIR FORCE ORDER
No.11/99
EXTENSION OF ENGAGEMENT : AIRMEN
Para – 4 (f)

(f)ACR & Assessment. For the purpose of grant of extension, annual assessments and/or his assessments in confidential reports during the last five years will be considered. An airman who has secured an average of 60% or above marks in his assessment/confidential report shall be eligible for grant of first extension of engagement subject to his fulfilling other conditions as laid down in this AFO. For the second and subsequent spells of extension of engagement, the airmen will have to score the following minimum percentage:-

(i) Sqt	70%
(ii) JWO	72.5%
(iii)WO/MWO	75%

Note:- The rank actually held by the airmen during the last five years will be taken consideration while arriving at the minimum average ACR/assessment marks."

The petitioner also submitted an application for extension of his engagement, however, the same was rejected as he failed to secure 75% marks in the Annual Confidential Reports, hence this petition for writ is preferred giving challenge to the decision of

the respondents for not extending services of the petitioner and also to Air Force Order No.11/99 with a prayer to allow further extension in service.

The contention of counsel for the petitioner while claiming the relief prayed in the petition is that the petitioner served the respondents will all efficiency and commitment, his candidature for extension was recommended by the officers in subordination of whom he worked and not to extend the service in the middle age of 53 years shall be highly arbitrary and on this count the Air Force Order No.11/99 is also bad.

A reply to the writ petition is filed on behalf of the respondents stating therein that there is no doubt that the petitioner served Indian Air Force with all dedication but his case does not come within the criteria laid down under Air Force Order No.11/99, therefore, extension was denied to him. It is also stated that extension in service is not as a matter of right but is on compassionate grounds, therefore, the claim made by the petitioner is ill-founded.

Heard counsel for the parties.

The respondents in their reply to the writ petition and also by way of filing an additional

affidavit have given details about Annual Confidential Reports of the petitioner, according to that he failed to secure the required 75% marks. In view of it the petitioner is certainly not eligible to get extension in service in accordance with Air Force Order No.11/99.

The other contention of the counsel for the petitioner is that the petitioner has acquired the age of 53 years and his discharge from service in this age shall render him absolutely unemployed as in such middle age no other employment can be offered to a former defence personnel. In the middle age of 53 years the petitioner is required to discharge social obligations and at such crucial time he shall be rendered jobless and that is quite arbitrary. The contention of counsel for the petitioner may be emotional but is having no legal foundation. It is pertinent to note that the petitioner availed five extension in his service tenure. The respondents were ready and willing to extend services of the petitioner even this time too but unfortunately the petitioner failed to touch the eligibility criteria. The extension in service is not available as a matter of right but is on compassionate considerations. Every policy is having its certain advantages as well as ills. The person availing advantages of the policy cannot make complaint about ills of the same policy. The alleged arbitrariness is required to be examined

on general principle that is availability of equal treatment in similar circumstances and reasonableness of the power. The Air Force Order No.11/99 does not confer any arbitrary, misguided or unchanneled power to the authority competent. A uniform criteria is prescribed for determining eligibility for grant of extension without making any kind of discrimination and also without giving any discretion to the authorities exercising powers. The case for extension is to be considered by uniform application of the policy, thus, the same is in consonance to Article 14 of the Constitution. Mere individual inconvenience does not make a policy bad unless it equip an authority with absolute, unguided, unchanneled and discriminatory power that hurt fundamental rights of a person or citizen of the country as the case may be.

In view of whatever discussed above, I do not find any merit in the writ petition. The same, therefore, is dismissed.

(GOVIND MATHUR),J.

kkm/ps.